

CR15-707-SRB ABDUL MALIK ABDUL KAREEM-PT#2 3-9-16

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

United States of America,)	
)	
Plaintiff,)	
)	CR15-00707-PHX-SRB
vs.)	Phoenix, Arizona
)	March 9, 2016
Abdul Malik Abdul Kareem,)	
)	
Defendant.)	
)	
)	

BEFORE: THE HONORABLE SUSAN R. BOLTON, JUDGE
EXCERPT OF REPORTER'S TRANSCRIPT OF PROCEEDINGS
JURY TRIAL - DAY #14
TESTIMONY: ABDUL MALIK ABDUL KAREEM - PART#2
(Pages 135 through 180, Inclusive.)

APPEARANCES:

For the Government:

U.S. ATTORNEY'S OFFICE
By: **Kristen Brook, Esq.**
Joseph Edward Koehler, Esq.
40 North Central Avenue, Suite 1200
Phoenix, AZ 85004

For the Defendant Abdul Malik Abdul Kareem:

MAYNARD CRONIN ERICKSON CURRAN & REITER PLC
By: **Daniel D. Maynard, Esq.**
Mary Kathleen Plomin, Esq.
3200 North Central Avenue, Suite 1800
Phoenix, AZ 85012

Official Court Reporter:

Elizabeth A. Lemke, RDR, CRR, CPE
Sandra Day O'Connor U.S. Courthouse, Suite 312
401 West Washington Street, SPC 34
Phoenix, Arizona 85003-2150
(602) 322-7247
Proceedings Reported by Stenographic Court Reporter
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E X C E R P T O F P R O C E E D I N G S

THE COURT: Good morning, ladies and gentlemen.
Please sit down. The record will show the presence of the
jury, counsel, and the defendant.

You may proceed with your cross-examination, Mr.
Koehler.

MR. KOEHLER: Thank you, Your Honor.

I want to just let the Court know there's an exhibit
that I want to play that apparently is going to take a few
minutes to play because there is an IT-enforced reboot of the
litigation laptop happening at this moment.

ABDUL MALIK ABDUL KAREEM, WITNESS, SWORN

CROSS EXAMINATION (cont'd)

BY MR. KOEHLER:

Q All right. Mr. Abdul Kareem, when we left off yesterday,
I was talking to you about your records from your visit to
John C. Lincoln Hospital.

Do you recall that?

A Yes.

Q And so in the course of your examination there at the
hospital you asked for x-rays to be performed; is that right?

A Yes.

Q Okay. Let's look here at the x-ray report. Right here it
says:

"Findings. There is no evidence of acute fracture or

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1 dislocation of the hip. Femoral head, neck intertrochanteric
2 regions and proximal femoral shaft appear intact. The
3 visualized portions of the superior and inferior pubic rami
4 and iliac wing appear supp intact."

5 Down at the bottom.

6 "No acute process identified."

7 Is that correct?

8 A Right.

9 Q In other words, somebody at the hospital didn't find any
10 evidence of an injury at that point, correct?

11 MR. MAYNARD: Objection. Objection to the form of
12 the question.

13 THE COURT: Sustained.

14 A JUROR: Our screen isn't working.

15 THE COURT: Oh. Maureen will fix it.

16 A JUROR: Okay. She turned it on. Thank you.

17 Maureen is becoming superfluous. She usually jiggles
18 the wires and it's fixed.

19 MR. KOEHLER: High tech at its finest.

20 BY MR. KOEHLER:

21 Q We also talked about your Roku device at your house,
22 correct?

23 A Yes.

24 Q I want to show you on your monitor what's been marked for
25 identification as Exhibit 602. Do you recognize that?

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1 A Yes.

2 Q What is that?

3 A Looks like a remote.

4 Q That's the same model remote as the one for your Roku,
5 correct?

6 A Yes.

7 MR. KOEHLER: Move to admit 602.

8 MR. MAYNARD: No objection.

9 THE COURT: 602 is admitted.

10 (Exhibit No. 602 admitted in evidence.)

11 THE WITNESS: But the Roku that I have didn't come
12 with that.

13 MR. KOEHLER: There's not a question in front of you,
14 sir.

15 BY MR. KOEHLER:

16 Q Do you remember your interview on May 5th of 2015?

17 A Somewhat.

18 Q Some of it?

19 A Yes.

20 Q Do you recall Agent Whitson advised you during the course
21 of your interview that lying to the FBI is a crime, correct?

22 A Yes.

23 Q And during that interview you told agents that you did not
24 go shooting in the desert with Elton Simpson and Nadir Soofi
25 prior to May 3rd of 2015, didn't you?

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1 A No, I didn't.

2 Q So it's your testimony here today that you did not make
3 that statement?

4 A I didn't make that statement.

5 Q Okay. Before May 3rd, 2015 --

6 Or excuse me --

7 You told the agents that before May 3, 2015, neither
8 Simpson nor Soofi fired the weapons they used in connection
9 with the Garland attack that occurred on May 3, 2015?

10 A I don't remember saying that.

11 Q So you don't remember saying that to the agents?

12 A No.

13 Q You also told the agents you did not know in advance that
14 Simpson and Soofi planned to conduct an attack in Garland,
15 Texas, correct?

16 A Yes.

17 Q And you also told them that you did not know about the
18 Muhammad Art Exhibit and Contest that was to take place on
19 May 3, 2015, until after that attack occurred, correct?

20 A Yes.

21 Q And you told us earlier -- actually, I want to come back
22 to that.

23 Let's talk about your BMO Harris deposit. You said
24 that deposit came from an insurance settlement, right?

25 A Yes.

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1 Q And what was the name of the insurance company?

2 A I don't remember the name of the insurance company.

3 Q What type of vehicle were you in when you were in the
4 collision that led to the settlement?

5 A I was in a -- a rental car.

6 Q And you deposited that check into a new account with BMO
7 Harris because you had trouble with your business account,
8 right?

9 A Right. It wasn't a check that I deposited. It was cash.

10 Q You testified yesterday it was a check, didn't you?

11 A No. I cashed the check.

12 Q Where did you cash it?

13 A I cashed it on 19th Avenue and Bell at a check cashing
14 store. I deposited the cash into the BMO Harris.

15 Q So you took a \$10,000 check to a check cashing store?

16 A Yes.

17 Q And you cashed it?

18 A Yes.

19 Q And then you went to BMO Harris and deposited the \$10,000
20 in cash?

21 A Yes.

22 Q So the check cashing store didn't take any fee for cashing
23 the check?

24 A Yeah. The check was actually for \$13,800.

25 Q It was for \$13,800?

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1 A Yes.

2 Q And you only had 10,000 left?

3 A And I had 10,000. I paid off all my bills. My landlord,
4 all my bills and everything, and got caught up on all my
5 bills. Then I deposited the rest of the money inside of the
6 BMO Harris account and went and bought the truck in San Diego
7 and then came back up --

8 Q Okay.

9 A -- and then purchased --

10 Q Let's stop for a minute.

11 How much did you pay for that truck?

12 A I paid \$4,000 for it.

13 Q And you said you spent the rest of the money, the rest of
14 the 5,000?

15 A In order to get the truck overhauled, tires and everything
16 else on it, that came to over 1500.

17 Q You testified yesterday that you had let Elton Simpson use
18 your computer to set appointments for your business, right?

19 A Yes.

20 Q That's not what you told Detective Nash back in January
21 2014 though, was it?

22 A I don't remember.

23 Q Isn't it true you told Detective Nash that you had told
24 Simpson and Abu Bakr Ahmed not to use your Lenovo laptop?

25 A Yes. I did tell them that.

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1 Q You also admitted to Agent Nash that you looked at Inspire
2 Magazine on your own, correct?

3 A Yes.

4 Q And you wanted to see what it was all about?

5 A Uh-huh.

6 Q You knew that Anwar al-Awlaki was a major contributor to
7 Inspire, didn't you?

8 A No.

9 Q You told Agent Nash you didn't care about that Inspire
10 stuff, right?

11 A Yes, I did.

12 Q You said: You're asking for trouble. I don't follow that
13 kind of thing.

14 A Yes, I did.

15 Q Did you know that Anwar al-Awlaki had been killed in a
16 U.S. drone strike?

17 A Not at that -- at that time, no, I didn't.

18 Q You testified on direct that you moved out of the Vista
19 house and got away from Abu Bakr Ahmed because he was into
20 fraud stuff, right?

21 A Yes.

22 Q Yet you continued to have Mr. Simpson live with you?

23 A Simpson -- I didn't know that he was into anything.

24 Q But you knew that he had been convicted of lying to the
25 FBI, didn't you?

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1 A No, I didn't.

2 Q You tried to wipe that Lenovo laptop before giving it to
3 Sergio Martinez; isn't that right?

4 A Yeah. We both did. Me and Sergio.

5 Q Okay. And that was because there was bad stuff on it you
6 didn't want kids to see?

7 A Well, I didn't know exactly what was on it, so.

8 Q You testified yesterday that there was bad stuff on it.

9 A Bad stuff on it, but I didn't know exactly what was on it,
10 so I tried to wipe it because Detective Nash had spoke to me
11 about the Inspire Magazine and I didn't know what exactly what
12 was all on that computer.

13 Q So you didn't know that the bad stuff on there also
14 included Anwar al-Awlaki lectures about Violence Against
15 Western Targets?

16 A I didn't know about that Anwar al-Awlaki lectures was
17 violent.

18 Q While we're talking about electronic devices, you used
19 your Maxwest Gravity 5.5 cell phone as a WiFi hotspot for your
20 Acer computer, didn't you?

21 A I had hooked it up once for it but never used it. It
22 wouldn't work for me.

23 Q But you were, in fact, accessing the Internet using the
24 Acer Aspire, correct?

25 A The Acer was hooked up to the Internet which was Cox at

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1 the --

2 Q Okay.

3 A -- and that was at the Cochise house.

4 Q What about at your apartment that you moved into?

5 A I didn't have Internet there.

6 Q So how were you using the Nextbook to access the Internet?

7 A It was hooked up to my -- to my phone.

8 Q Okay.

9 A It always stayed hooked up to the phone.

10 Q Okay. So you set up a WiFi hotspot on your phone,
11 correct?

12 A Right.

13 Q And you used that to tether your computer and your tablet?

14 A Right. That's only the tablet. I didn't use the
15 computer.

16 Q So you stopped using the computer --

17 A Yes.

18 Q -- in May of 2015?

19 A No. I stopped using the computer back in around November.
20 I didn't really use the computer.

21 Q So the Acer --

22 A There was something wrong with it. We tried to get it to
23 get the computer fixed but it wouldn't work. It wasn't
24 working right for me.

25 Q So the Acer computer that you had in your apartment on

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1 June 10 of 2015 --

2 A Uh-huh.

3 Q -- you did not use that computer?

4 A I tried to use it but it wouldn't work. It wouldn't work
5 for me.

6 Q Okay. While we're getting those two laptops out, did you
7 use the Cox service to provide Internet access to the Roku
8 device.

9 A Yes.

10 Q And the Roku device is a media streaming player, right?

11 MR. MAYNARD: Excuse me. I can't hear while he's
12 doing this.

13 MR. KOEHLER: Okay. I'll pause for a minute.

14 THE WITNESS: A media streaming device?

15 MR. MAYNARD: Sorry.

16 THE COURT: Okay. The question was:

17 And the Roku device is a media streaming player,
18 right?

19 THE WITNESS: I wouldn't say "media." I know it
20 played movies.

21 BY MR. KOEHLER:

22 Q So you could use it to access Netflix, right?

23 A Yeah. Movies.

24 Q You could use it to access Hulu?

25 A Yes.

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1 Q You could use it to access YouTube?

2 A Not that one I had.

3 Q Okay. It got its movies and stuff off the Internet; is
4 that right?

5 A Yes.

6 Q Okay. Have you had a chance to look at these computers
7 before taking the stand?

8 A Say that again?

9 Q Have you had a chance to look at these laptop computers
10 before taking the stand?

11 A No.

12 MR. KOEHLER: May I approach the witness?

13 THE COURT: You may.

14 THE WITNESS: Okay. It's been a long time since I
15 seen this computer, so, okay.

16 MR. MAYNARD: Can you tell us the numbers on those?

17 MR. KOEHLER: 112 is the Acer and 161 is the Lenovo.

18 BY MR. KOEHLER:

19 Q Those were your computers, right?

20 A Well, the Acer was. The Lenovo was mine back in 2012 and
21 then I gave it to Sergio, so it belonged to Sergio.

22 Q So it's your testimony that you had no Internet access
23 other than through your Gravity 5.5 Maxwest phone?

24 A Yes.

25 Q At the apartment?

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1 A Yes.

2 Q At Cochise you had Cox Internet?

3 A I had Cox up until I would say -- I don't remember.

4 November.

5 Q You had CenturyLink at one point as well, didn't you?

6 A Right.

7 Q You testified on direct that Mr. Simpson was pushy with
8 you about wanting to go shooting, right?

9 A Yes.

10 Q In fact, you testified he was upset because Sergio
11 Martinez pushed back the shooting to the following weekend,
12 right?

13 A Yes.

14 Q Again, in May of 2015, May 5th, you told the FBI you did
15 not go shooting in the desert with Simpson and Soofi, isn't
16 that right?

17 MR. MAYNARD: Objection. It's been asked and
18 answered.

19 THE COURT: Overruled. You may answer.

20 THE WITNESS: No. I didn't say that.

21 BY MR. KOEHLER:

22 Q You also testified that you kicked Elton Simpson out of
23 your home in the summer of 2013, right?

24 A Yes.

25 Q And your reasons were because he was watching military

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1 videos and because you thought he had placed a tracking device
2 in your car?

3 A Yes.

4 Q Let's talk about the videos.

5 Were they videos of soldiers involved in battles in
6 the Middle East?

7 A Yes.

8 Q Did they have voiceovers?

9 A No. I just remember it was music playing.

10 Q Were they nasheeds?

11 A I don't know what -- well, it sounded like music.

12 Q Okay. Was it someone singing or was it actual, like,
13 music playing?

14 A Yeah. Somebody singing.

15 Q Was Elton Simpson watching beheading videos back in 2013?

16 A No. I never seen any.

17 Q And you never told the FBI any of this when you talked to
18 Detective Nash in 2014, correct?

19 MR. MAYNARD: Objection to the form of the question.

20 THE COURT: Sustained.

21 BY MR. KOEHLER:

22 Q You never told Agent Nash about Elton Simpson watching
23 military-type videos when you talked to him in January of
24 2014, did you?

25 A When are you talking about? When I went to pick the

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1 computer up?

2 Q You talked to him twice.

3 The day before you picked up the computer?

4 A On the phone?

5 Q Yes.

6 A That question was never asked.

7 Q And then you talked to him about -- you talked to him the
8 following day when you picked up the computer as well?

9 A I only talked to him twice but the question was never
10 asked.

11 Q Your May 5th, 2015, interview, you did not tell the agents
12 about Simpson watching those military-style videos, did you?

13 A I can't recall if I did or not.

14 Q And you didn't tell them about those videos in your
15 June 10, 2015, interview either?

16 A I can't remember if I did or not.

17 Q When you spoke to Detective Nash on January 24 of 2014,
18 that's when you got the Lenovo computer back, right?

19 A I don't remember the date that I got it back.

20 THE COURT: Well, does that sound about the time that
21 you got it back?

22 THE WITNESS: Yeah. It was like late January.

23 THE COURT: 2014?

24 THE WITNESS: Yes.

25 BY MR. KOEHLER:

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1 Q First off, you did not tell him that Elton Simpson had
2 authority to use your Lenovo laptop computer on behalf of your
3 business, did you?

4 A It was in 2014.

5 MR. MAYNARD: Objection, Your Honor.

6 THE COURT: Excuse me. Your lawyer wants to say
7 something first.

8 MR. MAYNARD: Objection to the form of the question
9 and it's been asked and answered; and three, we don't know
10 whether the question was ever asked.

11 THE COURT: Well, that may be a possible answer, but
12 it doesn't make the question objectionable.

13 Overruled. Please ask the question again, Mr.
14 Koehler.

15 BY MR. KOEHLER:

16 Q When you spoke to Detective Nash on January 24, 2014, you
17 got your Lenovo computer back from him, you did not tell
18 Detective Nash that you had authorized Elton Simpson to use
19 your Lenovo laptop computer on behalf of your business,
20 correct?

21 A It was in 2014 when he called me to come and get my
22 computer.

23 Q And then --

24 A The question was never asked did I let Elton see it --
25 Elton come use my computer.

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1 Q Well, the next day when you talked to him when you got the
2 computer, you told him about the fact that you made Simpson
3 leave your house, right?

4 A Right.

5 Q And you told him the reason you made Simpson leave the
6 house was because Simpson had been using your Lexus and --

7 A Right.

8 Q -- and not paying you for the use of the Lexus?

9 A Right. He was supposed to buy it.

10 Q And then you claim that he put a tracking device on your
11 car or you found something that you thought was a tracking
12 device?

13 A I found it, yes.

14 Q Right?

15 A Yes.

16 Q And then you took the car away from him, right?

17 A Right.

18 Q You told Agent Nash that the next day Simpson went and
19 bought himself a used car?

20 A Yes.

21 Q And that upset you?

22 A Right. And I put him out because of it.

23 Q And then you kicked him out because of that?

24 A No. I put him out that same day I found it. I didn't put
25 him out the next day. I put him out the same day.

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1 Q That you found the device?

2 A Yes.

3 Q But you didn't mention anything about those military
4 videos being a basis for putting him out?

5 A They wasn't asked. He didn't ask me those questions. I
6 volunteered that information.

7 Q Okay. But you didn't volunteer all the information, did
8 you?

9 A No, because he wouldn't ask that.

10 He asked me a question how is your friends and how
11 are they doing and I just volunteered that information.

12 MR. KOEHLER: I finally have things up and running.
13 I want to play a portion of a phone call between you and the
14 Gainsco Insurance Company.

15 BY MR. KOEHLER:

16 Q Do you remember getting a call from the insurance person
17 to ask you about your claim?

18 A Yes.

19 Q I want to play the beginning of this call and you tell me
20 if you recognize it.

21 THE COURT: First, you're going to tell us if it's
22 your voice that you hear in the conversation so we know
23 whether or not it's a conversation between you and someone
24 else.

25 THE WITNESS: All right.

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1 MR. KOEHLER: If I can switch to the laptop on the
2 lecturn, please.

3 It should be playing. Should I not see it on the
4 screens here?

5 (Playing Exhibit 601 audio to the jury.)

6 MALE SPEAKER #1: "This is (inaudible) calling from
7 the Gainsco Insurance. I'm calling about No. AZ415257.
8 April 8, 2015, approximately 4:09 p.m. Central Time. I do want
9 you to know this call will be recorded for training and
10 investigative purposes.

11 Do I have your permission to proceed?

12 MALE SPEAKER #2: Yes, you do. And I just have to
13 ask you about that last part (inaudible).

14 MALE SPEAKER #1: And can you confirm your first and
15 last name, please.

16 MALE SPEAKER #2: First name is Abdul Malik Abdul
17 Kareem.

18 MALE SPEAKER #1: Is "Abdul Malik" one word.

19 MALE SPEAKER #2: No.

20 MALE SPEAKER #1: And is "Abdul Kareem" also two
21 words as well?

22 MALE SPEAKER #2: Yes.

23 MALE SPEAKER #1: And, sir, what is your date of
24 birth."

25 BY MR. KOEHLER:

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1 Q Do you recognize your voice on that call?

2 A Yes.

3 Q And that's the call that you had with the insurance
4 company on April 8, 2015, correct?

5 A I don't remember the date.

6 THE COURT: But it was just a little bit after the
7 accident at the T-Mobile parking lot?

8 THE WITNESS: Yes.

9 MR. KOEHLER: Move to admit 601.

10 MR. MAYNARD: Assuming that the rest of the tape,
11 that's all it is, that's fine. I mean, I haven't heard the
12 tape.

13 THE COURT: Then 601 is admitted.

14 (Exhibit No. 601 admitted in evidence.)

15 THE COURT: Excuse me. Could you stop it for just a
16 moment? Since it's now admitted, the court reporter does not
17 have to attempt to take down the audio. You may continue.

18 (Playing Exhibit 601 audio to the jury.)

19 BY MR. KOEHLER:

20 Q That was a true recording of that entire conversation,
21 correct?

22 A I believe so.

23 Q All right. Now that my computer is done with the reboot
24 and playing that, let's circle back.

25 You said on direct examination that Simpson would

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1 never let anybody see him tweet on a cell phone; is that
2 right?

3 A Yeah -- or text.

4 Q I've placed on your screen -- can you see that there,
5 Exhibit 133, which is in evidence?

6 A Yeah.

7 Q Do you recognize that?

8 A That's him on the phone.

9 Q And you took that picture of him, right?

10 A Yeah. I was sitting down.

11 Q And so he's sitting there. You can see his phone. And
12 you take a picture of him of it?

13 A Taken when -- that's an L-shaped couch. I'm sitting --
14 the couch go like this (indicating). He's sitting on this end
15 and I'm sitting directly over here.

16 Q Well, let's go to 134, also in evidence.

17 You took that photo of him as well?

18 A Yeah. I don't see him tweeting or texting.

19 Q No. I didn't ask that question.

20 A You asked me that question -- you said --

21 Q I did not ask you that question just then.

22 No, I just asked you --

23 A I asked me the question that --

24 Q Sir, there's no question before you.

25 Do you see him in the photo there, right?

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1 A Yes.

2 Q You took that photo also, correct?

3 The date on that one February 18, 2015, correct?

4 A I can't see it.

5 Q Does that help you?

6 A Yes.

7 Q Now, let's go back to that 133 real quick. I'll go to the
8 second page of that. What's the date of that?

9 A The 23rd.

10 Q February 23rd, right?

11 A Yes.

12 Q You took both of those photos, correct?

13 A I believe so.

14 Q In your interview you mentioned having seen a video
15 depicting a person being burned alive in a cage, right?

16 MR. MAYNARD: Objection to the form of the question.
17 I don't know what interview he's talking about.

18 THE COURT: Yeah. Let's be more specific.

19 BY MR. KOEHLER:

20 Q In your June 10, 2015, interview you told the agents that
21 Elton Simpson showed you a video of somebody being burned
22 alive in a cage; is that right?

23 A I believe so.

24 Q I'm going to show you page 27 of Exhibit 157 which is in
25 evidence on the document camera.

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1 Those are screenshots from that video; is that right?

2 A I believe so. That's all I seen of the video. I didn't
3 see him get burned alive.

4 Q During your June 10 interview --

5 A I only seen the beginning of the video. I didn't see the
6 whole video. Nothing getting burned alive. As soon as
7 Simpson was about -- when he was showing it to me, after he
8 was showing this to me, I told him --

9 Q Sir, there's no question before you.

10 A Okay.

11 Q Thank you. It's your testimony you never went to the
12 apartment of Elton Simpson and Nadir Soofi prior to --
13 Nadir Soofi prior to February 2015, correct?

14 A Right.

15 Q And you only slept in that apartment one time, right?

16 A Right.

17 Q That was in February 2015 when your water went out?

18 A Yes.

19 Q And then I want to make sure I understand you correctly.

20 You testified on direct examination that you only
21 went into that apartment four or five times total?

22 A Yes.

23 Q And Ali Soofi was present each time you went there?

24 A Yes.

25 Q And, again, you only spent the night once?

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1 A Yes.

2 Q You testified on direct examination that someone called
3 you in October or November and told you that Elton Simpson and
4 Nadir Soofi bought AK rifles, correct?

5 A Yes.

6 MR. MAYNARD: Objection to the --

7 THE COURT: Yeah, let's -- we have been talking about
8 various years. And you said October or November but you
9 didn't say whether --

10 MR. KOEHLER: I'm sorry. 2014.

11 THE COURT: Okay. Was that the objection?

12 MR. MAYNARD: Well, that was part of the objection.
13 The other one, I don't believe he testified as to the years
14 when that -- or the time period when the phone call was made.
15 He said he got called at some point.

16 THE COURT: Okay. Well, why don't you ask your
17 question again. I can't remember that.

18 BY MR. KOEHLER:

19 Q You testified on direct examination that you got a call
20 from someone in October or November, 2014, and that person
21 told you that Elton Simpson and Nadir Soofi had purchased
22 AK -- or AK-style rifles; is that right?

23 MR. MAYNARD: Objection to the form of the question.

24 THE COURT: Overruled. You may answer.

25 THE WITNESS: Yes.

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1 BY MR. KOEHLER:

2 Q Who was it who called you and told you that?

3 A I don't remember.

4 Q When you talked to the FBI in May 2015, you didn't tell
5 them that information about that phone call, did you?

6 MR. MAYNARD: Objection to the form of the question.

7 THE COURT: Overruled. You may answer.

8 THE WITNESS: I don't remember.

9 BY MR. KOEHLER:

10 Q And during your interview on June 10, 2015, you didn't
11 tell the FBI about that phone call, did you?

12 A I don't remember.

13 Q When you testified on direct, you testified about the
14 shooting being close to the evening time; is that right?

15 MR. MAYNARD: Objection to the form of the question.
16 I'm not sure what he means by "the shooting."

17 THE COURT: Are you talking about the time when
18 everyone went with Sergio and Sergio's kids and he and Simpson
19 and Soofi?

20 BY MR. KOEHLER:

21 Q Correct. So when you went shooting with Sergio Martinez
22 and his boys and Elton Simpson and Nadir Soofi in the desert
23 near Wittmann, do you recall that?

24 A Yes.

25 Q And you testified that that event wrapped up close to

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1 evening time, right?

2 A Yeah. It was getting dark.

3 Q Because you could see the muzzle flashes?

4 A Yes.

5 Q Okay. And during your testimony you mentioned that you
6 saw that Simpson had been moving -- maybe he wasn't still
7 running but he was moving while shooting, correct?

8 A Well, yeah, he was still moving while shooting.

9 Q And you testified that you tried to take a photo of
10 Simpson and he got mad and made you delete the photo, right?

11 A Right.

12 Q And yet, again, during your May 5, 2015, interview, you
13 did not tell the FBI that, did you?

14 A I don't believe the question was asked and I don't
15 remember.

16 Q Well, in fact, you denied going shooting in the desert at
17 all on May 5, 2015, correct?

18 A Like I told you, I don't believe the question was asked.
19 I don't remember the question.

20 Q Okay. And in your June 10, 2015, interview, you told the
21 FBI that he was not moving while shooting, correct?

22 A I don't remember.

23 Q And you did not tell the FBI about taking a photo and
24 Simpson getting upset, did you?

25 A Well, no, I don't remember in that interview. I was

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1 scared to death on June 10th.

2 Q That's not the question I have for you, sir.

3 I asked you a very simple question.

4 A I don't remember.

5 Q Did you tell the FBI? Yes or no?

6 A I don't remember.

7 Q When you interviewed with the FBI on June 10, 2015, you
8 talked about going and purchasing the 38 Special ammunition,
9 correct?

10 A Yes.

11 Q You told them you bought a pack of it?

12 A Yes.

13 Q In fact, the tan bag that we showed here in court earlier,
14 that's the bag that that ammunition came in, isn't it?

15 A Not that I -- I don't remember.

16 MR. KOEHLER: May I approach the witness?

17 THE COURT: You may.

18 THE WITNESS: I wouldn't say that bag.

19 MR. MAYNARD: Oh, whoa. Whoa.

20 THE COURT: Wait. Wait. Wait until Mr. Koehler --
21 just look at it and then he is going to ask you a question for
22 you to answer. Don't start talking until he asks a question.

23 MR. KOEHLER: May I speak from here?

24 THE COURT: Yes.

25 BY MR. KOEHLER:

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1 Q I want you to read what that says right there on the bag.

2 A Okay. I see it.

3 MR. MAYNARD: Do you want to show it to me?

4 BY MR. KOEHLER:

5 Q It says it's 38 Special ammunition, PMC, correct?

6 A Yes.

7 Q During that June 10th interview, you did not tell the FBI
8 that Elton Simpson was with you when you went and bought that
9 ammunition, did you?

10 A I don't remember.

11 Q Specifically, you told the FBI that that ammunition was
12 all for yourself, correct?

13 A I don't remember.

14 MR. KOEHLER: May I replay this section of your
15 interview? This is 428 which is in evidence.

16 (Playing Exhibit 428 for the jury.)

17 BY MR. KOEHLER:

18 Q This bag I showed you in Exhibit No. 23, that's plastic,
19 right?

20 A Yes.

21 Q And it has two little holes at the top of the bag, little
22 handle holes?

23 A Yes.

24 Q In your June 10th interview with the FBI, you told Agent
25 Whitson and Detective Nash you only saw Elton Simpson probably

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1 once or twice a month in the months preceding the attack in
2 Garland, correct?

3 A Right.

4 Q That wasn't -- that wasn't true though, was it?

5 A I probably seen Elton probably about -- I would say about
6 around two -- about two times.

7 Q Okay. And during your June 10 interview, you told the
8 agents that you went to that apartment twice, probably three
9 times, correct?

10 A I'm not sure if I said that or not but I know I been there
11 probably about a handful.

12 Q And the last time you were at that apartment was about a
13 month-and-a-half before the Garland attack?

14 A Yes, when I went and picked them up.

15 Q Now, you saw Elton Simpson and Nadir Soofi get on the
16 Internet at times, didn't you?

17 A Where?

18 Q And you knew that --

19 A No. I said "where."

20 THE COURT: He said "where" not "yeah."

21 BY MR. KOEHLER:

22 Q I'm just talking in general.

23 You saw them get on the Internet and watch videos in
24 the past.

25 A Not Nadir.

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1 Q Just Elton Simpson?

2 A Just Elton Simpson when he was living at my house.

3 Q And you knew that these were things that had gotten him in
4 trouble before, correct?

5 A After I found out, yeah, he got in trouble for those.

6 Q Let's talk about that for a minute.

7 You knew he was on probation, right?

8 A I found out he was on probation.

9 MR. MAYNARD: Objection to the form of the question.

10 THE COURT: Overruled. He said yes he knew he was on
11 probation.

12 BY MR. KOEHLER:

13 Q And --

14 A I found out he was on probation in 2014.

15 Q Well, when he was living with you, he had a probation
16 officer coming to do home visits, didn't he?

17 A No. He was on summary probation. Once I found out. He
18 reported to them. They didn't come to the house.

19 Q And, in fact, you had some of his probation-related
20 documents in your apartment on June 10, 2015, when the FBI
21 searched your apartment, didn't you?

22 A No.

23 Q You had a whole boxful of his stuff in your apartment?

24 A No. It probably wasn't in my apartment. I believe it was
25 in my storage area but I didn't know it was his. And the

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1 storage area was in the backyard. It probably was out in the
2 backyard, not in my apartment.

3 Q He also sent you an e-mail in November of 2014 that
4 included a forwarded communication from his probation officer,
5 correct?

6 A He was at my house and he couldn't read the document that
7 was on his phone and he asked me can he forward it to my
8 e-mail address so he can print it out.

9 Q That wasn't my question.

10 I'm just asking you a yes-or-no question.

11 A Yes.

12 Q You previously had a 380 caliber pistol in your home at
13 some point, didn't you?

14 A No.

15 Q Which device did Elton Simpson use to show you the video
16 of the Jordanian pilot?

17 A He used his phone.

18 Q Now, I think you've already acknowledged that ISIS is the
19 group that claims to have a Khilafah; is that right?

20 A Yes.

21 Q And you went and saw Abdullah Mubarak yourself to talk to
22 him about the existence of a Khalifah, correct?

23 A We was in the car.

24 Q You were what?

25 A We were in the car.

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1 Q You were in the car?

2 A Yes. In my car. I wasn't at his house.

3 Q Did you previously have a shotgun in your home?

4 A No. I didn't have a shotgun in my home. Those shotgun
5 shells I have a long time.

6 Q I'm sorry?

7 A I said those shotgun shells I had for a long time.

8 Q And you just had them for the heck of it?

9 A No. They was supposed to go to Sergio.

10 Q All right. And you testified that you listened to Anwar
11 al-Awlaki CDs from 2010 to 2015, correct?

12 A Yes.

13 Q How many of his CDs did you own?

14 A I think 16. Only it was a case that came with The Lives
15 of the Prophet and I think 16 CDs come in that case.

16 Q Did you have any other series of his?

17 A No.

18 Q So you listened to that one series over and over again for
19 five years?

20 A Yes.

21 Q Where did you get that?

22 A I believe I bought it at a book store. I'm trying to -- I
23 think it was off of like 52nd Street and McDowell.

24 Q You had other CDs of his that had handwritten labels on
25 them, didn't you?

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1 A They weren't mines probably. I don't -- I only had Lives
2 of the Prophet.

3 Q But you listened --

4 A I don't know if those CDs that you had belonged to my
5 nephew.

6 Q But you were listening to them, right?

7 A No.

8 Q So you didn't have them in your car?

9 A I had them in my car but my CD player didn't work.

10 MR. KOEHLER: If I can have a moment?

11 That's all I have, Your Honor.

12 THE COURT: Ladies and gentlemen, we will take our
13 morning break and we will reconvene at 10:30.

14 You are reminded of the use admonitions.

15 Court is in recess until 10:30.

16 (Recess taken at 10:15 a.m.; resumed at 10:32 a.m.)

17 THE COURT: Thank you, ladies and gentlemen. Please
18 sit down. The record will show the presence of the jury,
19 counsel, and the defendant.

20 Mr. Maynard, questions on redirect.

21 MR. MAYNARD: Thank you, Your Honor, please.

22 **REDIRECT EXAMINATION**

23 BY MR. MAYNARD:

24 Q I'm going to put on the overhead the Exhibit 602 that was
25 admitted.

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1 That is a remote for a Roku; is that correct?

2 A Yes.

3 Q Okay. Was that device programmed to your television in
4 your living room at your house on Cochise?

5 A Yes.

6 Q Could you watch YouTubes on the television in your house
7 on Cochise using this Roku device?

8 A Not this one.

9 Q Okay. Were there other Roku devices in your house?

10 A Yes.

11 Q Who owned those Roku devices?

12 A Stefan had one and Billy Eldridge had the other one.

13 Q On the TV that was in your living room could you watch any
14 YouTubes?

15 A No.

16 Q Okay. Would it have been possible to have programmed this
17 device on one of the other Rokus so that one could watch
18 YouTubes?

19 A Yes. The device that I had, this one, was a Roku 1, like
20 the very first Roku and I programmed that remote to that Roku.

21 Q The one that was in the living room?

22 A Right.

23 Q Okay. You were asked some questions about Elton Simpson
24 and knowing when -- learning when he first had a felony
25 conviction.

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1 Tell the jury, when did you first learn that Elton
2 Simpson had a felony conviction?

3 A In 2014.

4 Q And how is it that you learned that he had a felony
5 conviction?

6 A He had got -- he had sent -- he asked me could I -- can he
7 send me an e-mail from his probation officer so he -- because
8 he couldn't see it on his phone.

9 And I had a printer and he wanted to print that
10 document out. So I let him send it to my e-mail and then I
11 printed the document out and then I seen that he was on
12 probation.

13 Q At the time that he lived with you at Vista, did a
14 probation officer ever come to the Vista house while you were
15 there?

16 A No.

17 Q At the time that he lived with you on Cochise, did a
18 probation officer ever come to the house while you were there?

19 A No.

20 Q Okay. You indicated a few minutes ago that it was your
21 understanding that he was on a different type of probation
22 where he actually went to see the probation officer; is that
23 correct?

24 A Right.

25 Q When did you learn that?

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1 A Well, I don't think he went to go see them. He didn't
2 have to go see them.

3 Q You think he was on probation and they just didn't check
4 on him?

5 A Yeah. He told me it was summary probation and summary is
6 like you don't go.

7 Q Okay. Now, you were asked some questions you got a
8 \$13,200 settlement on a case and you cashed it at a check
9 cashing place rather than putting it in the bank.

10 A Yes.

11 Q Okay. Explain to the jury why you did that that way?

12 A All right. I got the check for the \$13,800 and I -- I got
13 the check. I cashed it at the check cashing place because if
14 I was to deposit it into the checking account, they will hold
15 it for at least seven days.

16 I had already talked to the guy in San Diego on me
17 purchasing the truck and he had another buyer to buy the
18 truck. So I cashed the check and then took the \$10,000 and
19 deposited it into the BMO Harris account and withdrew \$5,000
20 out a couple days later.

21 Q Now, you were asked some questions about whether -- while
22 we have been here in court you have had a chance to look at
23 these laptops, the Acer and the Lenovo.

24 Do you recall that question?

25 A Yes.

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1 Q Okay. That is your Acer -- or it was your Acer and it was
2 your Lenovo at one time?

3 A Yes.

4 Q You've not had a chance to look at any of this stuff after
5 court any day, have you?

6 A No.

7 Q Why not?

8 A Because I'm incarcerated and been incarcerated for over
9 ten months. And nobody has brought any of these devices up to
10 the jail for me to look at.

11 Q In fact, are you in solitary confinement?

12 A Yes.

13 Q Okay. Do you have a television?

14 A No.

15 Q Do you have access to radio?

16 A No.

17 MR. KOEHLER: Objection. Beyond the scope.

18 THE COURT: Sustained.

19 BY MR. MAYNARD:

20 Q You were asked about a number of different -- I guess it
21 was said -- interviews that you gave.

22 In 2014 you went and met with Agent Nash and got back
23 your computer; is that correct?

24 A Yes.

25 Q Okay. You talked to him over the phone before you went

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1 and got the computer?

2 A Yes.

3 Q Okay. Did you think that that was an interview that you
4 were doing with him?

5 A No.

6 Q Okay. Did he ask you some questions?

7 A Yes.

8 Q Okay. Did you answer those questions when he asked you?

9 A Yes.

10 Q Okay. When you went and you picked up the computer, did
11 you sit down and have a formal interview with him?

12 A No.

13 Q Did he ask you some questions?

14 A Yes.

15 Q Did you answer those questions at that time?

16 A Yes.

17 Q At any time in 2014 when you met with Detective Nash to
18 get back your computer, did you think you were actually being
19 interviewed by the FBI?

20 A No.

21 Q What did you think was going on at that time?

22 A I was just coming there to pick the device up.

23 Q So when you said you didn't volunteer any information, if
24 he asked you questions, you answered it?

25 A Right.

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1 Q Okay. Now, in May of 2015, that was a formal interview at
2 the FBI office, correct?

3 A Yes.

4 Q Okay. Did you answer the questions there to the best of
5 your knowledge?

6 A Yes.

7 Q Okay. Did you answer the questions that they asked you?

8 A Yes.

9 Q Okay. Were you -- were you nervous at the time?

10 A Yes. I was.

11 Q Were you having some trouble with your diabetes?

12 A Yes.

13 Q Okay. Did you do the best you could to answer the
14 questions that were asked at the time?

15 A Yes.

16 Q Did they also caution you that if you lied to them, that
17 could be a federal offense?

18 A Yes.

19 Q Okay. Now, you then had a -- you then actually went back
20 voluntarily to the FBI office several weeks later, correct?

21 A Yes.

22 Q Okay. Were you willing to answer questions at that time?

23 A Yes.

24 Q And what was the purpose of going back several weeks
25 later?

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1 A Well, I was being followed and it was really -- I was
2 really, really -- it was over --

3 MR. KOEHLER: This is beyond the scope of cross, Your
4 Honor.

5 THE COURT: Overruled.

6 THE WITNESS: I was being followed and I didn't know
7 exactly why I was being followed.

8 And it was -- they almost caused me to get into an
9 accident a couple times. And I went back so I could speak to
10 somebody and talk to somebody because I didn't know exactly
11 what was -- why I was being followed at the time.

12 BY MR. MAYNARD:

13 Q All right. Now, you were arrested on June 10th of 2015?

14 A Yes.

15 Q You're taken into custody and you're taken into the FBI
16 office again?

17 A Yes.

18 Q Are you nervous?

19 A Very nervous.

20 Q Are you scared?

21 A Yes.

22 Q Are you asked a number of questions again by Agent Whitson
23 and Detective Nash?

24 A Yes.

25 Q Did you do the best you could to answer those questions at

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1 that time?

2 A Yes.

3 Q Did Agent Whitson ask you whether or not you had been
4 shooting with Soofi and Simpson at some point?

5 A Yes.

6 Q Did you tell -- what did you tell him?

7 A I told him that I was -- I was -- I was shooting with
8 them.

9 Q Did he ever say to you, "You didn't say that to me in the
10 last interview"?

11 A I don't believe so, no.

12 Q You were asked questions about the May 5th interview.

13 Did they ever show you any pictures of the weapons
14 that we've seen here for the last four weeks?

15 A No.

16 Q Okay. Do you have any idea what weapons Simpson and Soofi
17 would have been using in Garland, Texas?

18 A No. The only weapons -- I don't know what weapons they
19 would have been using. Only weapons I know is that these
20 weapons that they brought in here.

21 Q You had seen the weapons that they had when you had been
22 out in the desert shooting in January?

23 A Yes.

24 Q Did you know whether or not they still had those weapons
25 or not?

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1 A No.

2 Q Do you know whether they had acquired any new weapons or
3 not?

4 A No.

5 Q You were asked a question on cross-examination about
6 receiving a phone call from somebody telling you that some
7 individuals had purchased a -- or had gotten an AK.

8 Do you recall that question on cross-examination?

9 A Yes.

10 Q Okay. I believe on cross-examination you said that the
11 caller told you that it was Simpson and Soofi who had bought
12 AKs in October or November?

13 A No. It was Simpson. Somebody calling me and said Simpson
14 had purchased AKs.

15 Q Did somebody ever call you and tell you that Soofi had
16 purchased an AK?

17 A Later. Later somebody had called and said Soofi had
18 purchased.

19 Q You were asked whether or not you had ever had a 380
20 pistol in your home.

21 Did you ever have a 380?

22 A No.

23 Q Did you ever have any 380 ammunition in your house?

24 A I believe it was only one bullet that was there.

25 Q Do you have any understanding of how that one bullet got

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1 there?

2 A I was sweeping the truck. And when I was cleaning the
3 truck out, the back end of the truck and I found the clip and
4 the one bullet in the back. And I didn't want to dispose of
5 it, so I just put it in a drawer.

6 Q We listened to the tape recording of your talking to an
7 insurance agent or somebody, an insurance adjuster --

8 A Yes.

9 Q -- for the woman that ran into you.

10 Had you ever heard this tape before?

11 A No.

12 Q Do you recall that the conversation did occur sometime
13 within a week after that accident?

14 A Yes.

15 Q Okay. Did you have an attorney at the time?

16 A No.

17 Q Had you ever had an attorney prior to that?

18 A No.

19 Q Had you had one for your lawsuit?

20 A Yes.

21 Q Did you call that attorney?

22 A No.

23 Q When was it that you first went to an attorney for the
24 lawsuit involving getting hit in the packing lot?

25 A I believe it was like a week -- a week later. I don't

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1 really remember the dates.

2 Q Was it after you had gone to the chiropractor?

3 A Yes.

4 Q You were shown some pictures of Simpson holding his cell
5 phone that apparently you took at different times in February?

6 A Right.

7 Q Did Simpson -- was Simpson on his cell phone often?

8 A All the time.

9 Q Did he show you what he was doing when he was on his cell
10 phone?

11 A No.

12 Q Did you know whether he was tweeting versus texting versus
13 e-mailing?

14 A No.

15 Q Did he ever show you any of those?

16 A No.

17 Q There was questions asked of you and we heard a videotape
18 of your interview.

19 In the videotape you said that you bought those 38s
20 just for you. You heard that?

21 A Yes.

22 Q Okay. Did you buy those 38s just for you?

23 A No. Me and Simpson, we split them. We -- he gave me \$75
24 and I put my \$75 up and we bought them.

25 Q Okay. You were asked about why you hadn't volunteered

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1 certain information to Detective Nash in November such as you
2 didn't volunteer to him that you had seen any military videos.

3 Do you recall that?

4 A Yes.

5 Q You did volunteer at some point in that conversation --
6 you must have told them that you had thrown Simpson out at one
7 point?

8 A Yes.

9 Q Did you volunteer to him that you got help from
10 Mr. Mubarak and two other individuals to throw Simpson out?

11 A No.

12 Q Why not?

13 A I didn't think it was relevant.

14 MR. MAYNARD: I don't have any further questions,
15 Your Honor.

16 THE COURT: Thank you, Mr. Kareem. You may step
17 down.

18 MR. MAYNARD: Can he be released?

19 THE COURT: No.

20 You may call your next witness.

21 (End of Excerpt of Proceedings.)

22 * * *

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C E R T I F I C A T E

I, ELIZABETH A. LEMKE, do hereby certify that I am duly appointed and qualified to act as Official Court Reporter for the United States District Court for the District of Arizona.

I FURTHER CERTIFY that the foregoing pages constitute a full, true, and accurate transcript of all of that portion of the proceedings contained herein, had in the above-entitled cause on the date specified therein, and that said transcript was prepared under my direction and control.

DATED at Phoenix, Arizona, this 9th day of March, 2016.

s/Elizabeth A. Lemke
ELIZABETH A. LEMKE, RDR, CRR, CPE